

# State of South Dakota

NINETY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2017

549Y0029

SENATE BILL NO. \_\_\_\_\_

Introduced by: \_\_\_\_\_

1 FOR AN ACT ENTITLED, An Act to revise certain provisions of the prescription drug  
2 monitoring program.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-20E-1 be amended to read:

5 34-20E-1. Terms used in this chapter mean:

6 (1) "Administer," the direct application of a controlled substance to the body of a patient.

7 The term does not include the prescribing of a controlled substance for administration  
8 by the patient or someone other than the health care provider;

9 (2) "Board," the Board of Pharmacy;

10 (3) "Central repository," a place where electronic data related to the prescribing and  
11 dispensing of controlled substances is collected;

12 (4) "Controlled substance," any drug, substance, or immediate precursor as provided in  
13 schedules II through IV pursuant to §§ 34-20B-11 to 34-20B-26, inclusive;

14 (5) "De-identified information," health information that is not individually identifiable  
15 information because an expert has made that determination pursuant to 45 C.F.R.

16 164.514, or direct identifiers and specified demographic information have been



1 removed in accordance with the requirements of that section;

2 (6) "Dispense," to deliver a controlled substance to an ultimate user by or pursuant to the  
3 lawful order of a health care provider, including the prescribing, administering,  
4 packaging, labeling, or compounding necessary to prepare the substance for delivery;

5 (7) "Dispenser," any person who delivers a controlled substance to the ultimate user, but  
6 does not include:

7 (a) A licensed hospital pharmacy that provides a controlled substance for the  
8 purpose of inpatient hospital care;

9 (b) A licensed health care provider or other authorized individual in those  
10 instances when the practitioner administers a controlled substance to a patient;  
11 or

12 (c) A licensed veterinarian;

13 (8) "Individually identifiable health information," the meaning set forth in 45 C.F.R.  
14 160.103;

15 (9) "Integration," the linking of the central repository into the electronic health records  
16 to allow health systems, pharmacies, or health information exchanges to seamlessly  
17 access data;

18 ~~(9)~~(10)"Patient," any individual or owner of an animal who is the ultimate user of a  
19 controlled substance for whom a prescription is issued and for whom a controlled  
20 substance is dispensed;

21 ~~(10)~~(11)"Prescriber," an individual licensed, registered, or otherwise authorized by the  
22 jurisdiction in which the individual is practicing to prescribe drugs in the course of  
23 professional practice. The term does not include a veterinarian;

24 ~~(11)~~(12)"Program," the prescription drug monitoring program established by this chapter.

1 Section 2. That § 34-20E-2 be amended to read:

2 34-20E-2. The board shall establish and maintain a prescription drug monitoring program  
3 to monitor the prescribing and dispensing of all controlled substances. The program shall utilize  
4 a central repository, to which each dispenser shall submit, by electronic means, information  
5 regarding each prescription dispensed for a controlled substance. The information submitted for  
6 each prescription shall include specifically identified data elements adopted by the board and  
7 contained in the ~~2005~~ 2011 version of the electronic reporting standard for prescription  
8 monitoring programs, version ~~003, release 000~~, 4.2 of the American Society for Automation in  
9 Pharmacy.

10 Section 3. That § 34-20E-3 be amended to read:

11 34-20E-3. Each dispenser shall submit the information required by this chapter to the central  
12 repository at least ~~once each week~~ every twenty-four hours unless the board waives this  
13 requirement for good cause shown by the dispenser.

14 Section 4. That § 34-20E-7 be amended to read:

15 34-20E-7. Unless disclosure is prohibited by law, the board may provide data in the central  
16 repository to:

- 17 (1) Any prescriber for the purpose of providing medical care to a patient, a dispenser for  
18 the purpose of filling a prescription or providing pharmaceutical care for a patient,  
19 a prescriber or dispenser inquiring about the prescriber's or dispenser's own  
20 prescribing activity, or a prescriber or dispenser in order to further the purposes of  
21 the program including integration with electronic medical records;
- 22 (2) Any individual who requests the prescription information of the individual or the  
23 individual's minor child;
- 24 (3) Any state board or regulatory agency that is responsible for the licensing of

1 individuals authorized to prescribe or dispense controlled substances if the board or  
2 regulatory agency is seeking information from the central repository that is relevant  
3 to an investigation of an individual who holds a license issued by that board or  
4 regulatory agency;

5 (4) Any local, state, and federal law enforcement or prosecutorial officials engaged in the  
6 enforcement of laws relating to controlled substances who seek information for the  
7 purpose of an investigation or prosecution of the drug-related activity or probation  
8 compliance of an individual;

9 (5) The Department of Social Services for purposes regarding the utilization of  
10 controlled substances by a medicaid recipient;

11 (6) Any insurer for purposes regarding the utilization of controlled substances by a  
12 claimant;

13 (7) Any judicial authority under grand jury subpoena or court order or equivalent judicial  
14 process for investigation of criminal violations of controlled substances laws;

15 (8) Any public or private entity for statistical, research, or educational purposes after the  
16 information is de-identified with respect to any prescriber, dispenser, or patient who  
17 received a prescription for a controlled substance; or

18 (9) Any peer review committee, which means any committee of a health care  
19 organization, composed of health care providers, employees, administrators,  
20 consultants, agents, or members of the health care organization's governing body,  
21 which conducts professional peer review.